

CENTER FOR INSTITUTIONAL REFORM AND THE INFORMAL SECTOR

University of Maryland at College Park

Center Office: IRIS Center, 2105 Morrill Hall, College Park, MD 20742

Telephone (301) 405-3110 • Fax (301) 405-3020

E-mail: info@iris.econ.umd.edu

World Wide Web: <http://www.inform.umd.edu/IRIS/>

On the Prospects of Legal Reform in the Kyrgyz Republic

Michael Wallace, Esq.

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Author: Michael Wallace, Esq., IRIS, Central Asia Republics

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REPORT OF BUSINESS LAW MANAGER
OF IRIS-BISHKEK

ON THE PROSPECTS OF LEGAL REFORM
IN THE KYRGYZ REPUBLIC

Prepared by

MICHAEL WALLACE, ESQ.

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Iris-Bishkek
63 Erkindik 72
Bishkek Kyrgyzstan 720001

I. Executive Summary.

As the Kyrgyz Republic shifts from a planned economy to one with market mechanisms, legal reform *plays a critical role*. IRIS serves as USAID's primary legislation drafting contractor in Kyrgyzstan. IRIS aims to draft and implement legislation from the initial drafting stages through adoption of laws in Parliament. Although the President has the right *to issue decrees*, IRIS's efforts are focused on achieving laws through as democratic a process as possible.

Kyrgyzstan's newly revised Constitution vests significant powers in the President. In certain circumstances, the President can dissolve Parliament and rule by decree for several months before new elections are called. Short of the circumstances which justify dissolution of the Parliament, the Constitution of Kyrgyzstan establishes two separate branches of government with substantial legislative initiative. The President and his Government can issue decrees, regulations and other acts and they can both introduce legislation into the Parliament. The Parliament, in kind, reviews, adopts and draft laws.

IRIS's Business law Manager has experience working with the three primary initiators of legislation: The President's legal team, the Ministry of Justice (part of the Government), and the Legislative Assembly of the Parliament. What is clear from this experience is that communications among the various initiators of legislation is weak and as a result, several laws have multiple drafts. This paper ultimately recommends what is the best strategy for IRIS so that it can both draft laws and more important, help teach a legislative process between the executive and legislative branches. More than any single piece of legislation, if IRIS can help teach the executive and legislative branches the value of working together when possible, legislation will flow through the process from initiation to enactment more efficiently. Without such cooperation, IRIS and USAID will continue to encounter the problem of laws being drafted for the executive but actual implementation and adoption being delayed if not stymied because the Parliament was not involved during the drafting stages.

II. Definitions.'

The following definitions are used throughout the text and are meant as general guidelines for types of government systems set up by various Constitutions. They are not meant as precise terms which fit all situations.

Parliamentary Government: Popularly elected members of parliament choose executive (usually called the Prime Minister) of the country. The Prime Minister answers to parliament and thus the executive has no independent mandate. If political support wanes in parliament, executive will have to call for new elections to revive power. Examples: Great Britain and Japan.

Presidential Government: Executive is elected separately from the parliament and has independent mandate but no right to dissolve parliament. Chief example: United States.

Hybrid Government: Parliament and executive are independently elected, but president is supreme and can dissolve parliament in circumstances delineated under the Constitution. Examples: France, Kyrgyzstan, Russia.

ⁱ The following definitions are essentially from: Comparative Legal Traditions, by Mary Ann Glendon, Michael Wallace Gordon, and Christopher Osakwe, 1982 ed.

III. Separation of Powers in Kyrgyzstan.

By Referendum on February 10, 1996, the people of Kyrgyzstan adopted amendments to their Constitution. Under the prior version of the Constitution, there was one legislative body, the Jogorku Kenesh², which consisted of 105 Deputies. The amended Constitution splits the Jogorku Kenesh into two chambers: the Legislative Assembly and the People's Assembly. The combined powers of the two chambers are similar to those of the prior unified body.

The significant difference in the Constitutional structure is that before, the President could only dissolve the Jogorku Kenesh by Referendum of the people. Now the President can dissolve either or both chambers of the Jogorku Kenesh for deadlock between the chambers or between the executive branch and either or both chambers, for rejecting the President's nominee for Prime Minister 3 times, and by referendum.

In addition, prior to the February amendments to the Constitution, the Jogorku Kenesh could impeach the President by two thirds vote and if it failed, there were no negative consequences. Now, the process is more complicated and carries the chilling risk of dissolution if the Legislative Assembly's charges are deemed not meritorious. **According** to Article 51, the Legislative Assembly makes the charge of treason or other "high crime" (in Russian, *вещное дело о государственной измене или о совершении иного тяжкого преступления*) and the Constitutional Court must affirm the charge. If the Court fails to affirm the charge, the Legislative Assembly is dissolved. If the Court confirms the charge, then the People's Assembly must vote by two thirds to impeach. If the People's Assembly fails to impeach, the Constitution does not provide for dissolution.

Although the amendments to the Constitution significantly strengthen the powers of the President, the Constitutional framework gives meaningful powers to both the Legislative and Executive branch.³ To date in Kyrgyzstan, the President has not

² Jogorku Kenesh is the Kyrgyz phrase for the Russian phrase Supreme Soviet.

³ The Constitution of the Kyrgyz Republic establishes three branches of government: executive, legislative, and judiciary. This paper does not discuss the role of the judiciary.

threatened the Parliament with dissolution. Moreover, the Parliament has not provoked the President by holding a no-confidence vote in the Government. Thus, in its early stages, Kyrgyzstan's Constitutional framework is working and an emerging democratic form of government under the traditional model of a Presidential system is taking root. Substantial legislation, such as Civil Code Part I, the Tax Code, and the Law on Economic Partnerships and Companies have been introduced into both of the chambers of the Jogorku Kenesh which held meaningful debates and ultimately voted to pass each of the laws. The President signed into law the Civil Code and the Tax Code and vetoed the Law on Economic Partnerships and Companies.

The chart on the next page shows the various powers of each branch of government under Kyrgyzstan's Constitution. Absent any crisis between executive and legislative branches, the model is closest to a Presidential system of government. Only with the passage of years and being able to witness the frequency and severity of executive and legislative clashes will it be possible to assess if this Constitution fosters or disguises democracy. The question is: is there a meaningful balance of powers or does the President ultimately have a fist in a velvet glove?

Perhaps, the experience of Russia, which also has a potentially strong executive under its 1993 Constitution, will be instructive. Although a Constitutional clash in Moscow has yet to occur, the President of Russia has preferred to restructure Russia's economy by decree rather than by law. The President of Kyrgyzstan has similar powers but has yet to exercise them and he should be given high marks for his sustained attempts to have a meaningful balance of powers.

The chart of Separation of Powers demonstrates that the Kyrgyz Republic has a hybrid system of government. To date, there has yet to be a Constitutional crisis involving the dissolution of Parliament since the passage of the February amendments. The President, however, has substantial powers to legislate and to dissolve Parliament and can in fact become the legislature. It is this threat which gives the Kyrgyz Constitution aspects of a parliamentary system which allow, as in Great Britain, the head of State to dissolve the legislature.

The Powers of the President:

Under Articles 63 and 68 of the Kyrgyz Constitution the potential powers of the President become evident:

Article 63

1. The Legislative Assembly and the Assembly of People's Representatives may be dissolved ahead of time by a decision adopted by a majority vote of no fewer than two-thirds of the total number of deputies of the respective chambers.
2. The Legislative Assembly or the Assembly of People's Representatives, or both chambers of the Jogorku Kenesh simultaneously, may be dissolved ahead of time **by the President** of the Kyrgyz Republic: as the result of a referendum; in the event of three-times refusing to approve the appointment of a Prime Minister; **or in the event of a crisis caused by insurmountable differences** between the chambers of the Jogorku Kenesh or between one or both chambers of the Jogorku Kenesh and other branches of state power.
3. In the case envisaged in Point 3 of Article 51 [ed. failed impeachment] of this Constitution, the Legislative Assembly shall be considered dissolved from the moment of the pronouncement of the resolution by the Constitutional Court of the Kyrgyz Republic.
4. The chambers of the Jogorku Kenesh may not be dissolved: in time of a state emergency or war; during consideration by the chambers of the Jogorku Kenesh of the issue of dismissing

the President of the Kyrgyz Republic from office; or when there are fewer than six months remaining until the end of the term of office of the President of the Kyrgyz Republic.

5. In the event of dissolution of the Legislative Assembly, the Assembly of People's Representatives, or both chambers of the Jogorku Kenesh, the President of the Kyrgyz Republic shall appoint the date of elections of deputies of the given chamber or chambers, so that the newly elected chamber or chambers convenes for its first meeting no later than six months after the moment of dissolution.

Article 68

1. The chambers of the Jogorku Kenesh may delegate their legislative authority to the President of the Kyrgyz Republic for a period of no more than one year.

2. Legislative authority shall be transferred to the President of the Kyrgyz Republic in the event of dissolution of the chambers of the Jogorku Kenesh.

3. Legislative authority shall be carried out by the President of the Kyrgyz Republic by the adoption of decrees, which have the force of law.

4. In the event of the dissolution of one of the chambers of the Jogorku Kenesh the President of the Kyrgyz Republic shall carry out the legislative authority of that chamber only.

These two articles taken together show that the President has the potential to rule by decree and to dissolve Parliament in the event that Parliament creates obstacles for the President by rejecting his candidate for Prime Minister or if the Parliament

Example of potential dissolution:

The Legislative Assembly of the Jogorku Kenesh reconvened on September 2, 1996. Its first priority was to adopt rules for this session. The expected period of time for such adoption was three days. As of this writing, rules have not been adopted as the Legislative Assembly has been debating both proposed rules and corruption charges against certain members. As a result, key legislation has been held-up. Amendments to the Tax Code and the President's July veto of the Law on Economic Partnerships and Companies were to already be discussed. Next in line are Civil Code Part II, the Law on Government Procurement, and possibly the Collateral Law. Each of these laws are of significant importance to the President and all but the Tax Code have involved substantial IRIS assistance.

If the Legislative Assembly does not advance past its rules and the corruption charges, the President could deem it to be ineffective and in gridlock and thus dissolve it. Article 63.5 stipulates that the President must call for elections so that the new body can convene within six months of the dissolution.

becomes ineffective due to gridlock. Article 47 grants the President the right to issue decrees and orders and the Constitution does not limit the subject matters of Presidential Decrees. If either or both chambers of the Jogorku Kenesh have been dissolved or have delegated legislative authority to the President, then Articles 47 and 68 taken together state that Presidential decrees are the equivalent of Laws. See Attachment 1 for hierarchy of legislation.

Article 47

1. The President of the Kyrgyz Republic issues decrees and orders.
2. Execution of decrees and orders of the President of the Kyrgyz Republic shall be mandatory for the whole territory of the Kyrgyz Republic.
3. Decrees and orders made by the President of the Kyrgyz Republic in carrying out full legislative authority in accordance with sub-point 6 of point 5 of Article 46 of the Constitution [ed. Cross-reference to Article 68: if Parliament dissolved, Presidential decrees= laws] shall have the force of law.

Although the President has substantial potential powers, he can only rule by decree for up to six months if he dissolves one or both of the chambers and up to one year if either or both chambers of the Jogorku Kenesh delegate such power to him.

The Powers of the Jogorku Kenesh:

A closer look at the powers of the Jogorku Kenesh show that real powers indeed are vested in the legislative branch of the Kyrgyz Constitutional framework.

Article 58 delineates the powers of each chamber of the Jogorku Kenesh. The Constitution specifically states that the Legislative Assembly meets continuously (Article 54) and that its Deputies cannot maintain other employment. The People's Assembly meets less regularly and its members can maintain other employment and business activities. Article 54.

It is inappropriate, however, to view one chamber as “higher” than the other under the model in the United States. In the United States, legislation first must be approved by the House of Representatives and then it is sent to the Senate for approval prior to going to the President. The theory in the United States is that the Senators are elected for six years and the stability of that chamber will balance the more volatile House of Representatives whose members stand for elections every two years.

Like the Congress of the United States, however, the People’s Assembly has some of the functions of the Senate, such as approving most appointments of the President. The Legislative Assembly, however, ratifies treaties and must approve all laws passed by the People’s Assembly. The People’s Assembly, in contrast, has only limited instances when it reviews laws of the Legislative Assembly, such as laws on taxes, duties and tariffs, banking and financial institutions, and amnesty, and treaties. Article 59.2. Any law adopted by the People’s Assembly must be approved by the Legislative Assembly. If either chamber rejects a law of the other (in the limited instances when each chamber reviews legislation of the other), the other can override **the vote by a subsequent two-thirds override vote. Thus, the Jogorku Kenesh splits** several of the United States Senate’s functions between its two chambers and when review of acts **is done by** one chamber, the other chamber has an override capability absent in the United States. The following Chart compares the flows of legislation in the United States **and Kyrgyzstan:**

The important powers of the Jogorku Kenesh can best be demonstrated as those which are performed with joint jurisdiction and separate jurisdiction:

Joint Powers of chambers of Jogorku Kenesh:

- Both chambers of the Jogorku Kenesh must approve the President's nominees to the Constitutional Court and can remove them by two-thirds vote of both. (Article 46.2 and 81.2).
- Both chambers have active role in dismissal or impeachment of President: The Legislative Assembly makes a charge of grave crime or treason (Article 51.1.). The Legislative Assembly must approve the charge by a two thirds vote and vote can only be taken if a special commission of the other chamber, the People's Assembly, has agreed. (Article 51.2). If so, then upon two-thirds vote by the Legislative Assembly to adopt the charges, the charges are sent to the Constitutional Court (Articles 51.3 and 82.4). If the Constitutional Court agrees, then the charges are sent to the People's Assembly which must impeach by a two-thirds vote. If the Constitutional Court rejects the charge, then the Legislative Assembly is dissolved and the charge never goes to the People's Assembly. (Article 51.3). If the Constitutional Court agrees with the charge but the People's Assembly fails to impeach by two-thirds vote, the Constitution does not call for dissolution of either or both chambers of the Jogorku Kenesh.
- Both chambers can invite any member of Government to inquire about matters and the executive member (minister, deputy minister, et cetera) must appear before the deputy. Article 57.

The Legislative Assembly has the following powers:

- To order military intervention abroad, to declare a state of emergency or war, and to approve the same declarations of the President. Articles 9, 10, 58. The President has the authority to make the above decisions only for a temporary basis.
- Adopts legislation on all subjects. Article 58.1. In cases other than budget, taxes, duties and tariffs, banking and financial institutions, amnesty, and treaties, the Legislative Assembly can adopt laws without passing them through the People's Assembly.

The People's Assembly has the following powers:

- Adopts the government budget. Article 58.3.4)
- Adopts law on territorial structure of Kyrgyzstan. 58.3.6)
- Approves all Presidential appointees under Constitutions (Prime Minister, Procurator, Chairman of National Bank, Judges of Supreme Court and Highest Arbitration Court. Article 58.
- Approves Prime Minister and adopts no confidence votes. Articles 71.3 and **58.3.18.**

In short, under the Constitution, if neither of the chambers of the Jogorku Kenesh has been dissolved, then the President has limited powers. He can issue decrees without limitation but unless he has dissolved the Jogorku Kenesh or the Jogorku Kenesh has delegated powers to him, Presidential Decrees are not on the same level as laws passed by the parliament. Article 47.3 and 46.5.5) and 46.5.6). See Attachment 1.

Short of the President acting as the legislature, the normal course of events for a law coming out of either chamber of the Jogorku Kenesh is that the President must sign it or return it within 15 days with objections to the chamber that passed it. Article 66.1.

An Example of
Legal Process from
introduction to
Presidential
Signature:

The Law on Economic Partnerships and Companies was prepared by a consultant for the World Bank and the President's legal department. The President introduced it to Parliament at the Legislative Assembly. The Legislative Assembly then read the proposed law once in front of all deputies. Comments were made and the law went back to the Committee '(in this case, the Committee on Economic Reforms and Finance) who made suggested changes and then the law was read a second time. Once the second reading was done, it was passed by a vote of 31-3. The law was then sent to the President to sign or to return with objections (veto) within 15 days, Article 66.1 and 66.2.

The President vetoed this law because the Parliament introduced several amendments which defeated key principles of the law. Currently, the law is in front of the committee to discuss the President's objections. The author participated in the Committee meeting with a member of the President's legal team to discuss the objections. The committee agreed by votes of 8-1 to adopt all of the President's objections and the law will be voted on by the entire Legislative Assembly in October. The Legislative Assembly can override the veto by a two-thirds vote but this is unlikely given the strength of the votes in the committee. Once the objections are voted on, the law will return to the Committee to have the adopted changes inserted and the law will be sent to the President for signature.

In summary,

the Separation of Powers under normal situations in Kyrgyzstan is very similar to the Presidential system in the United States. it is the President's power to dissolve the Jogorku Kenesh which moves Kyrgyzstan Constitution in the hybrid form of government.

IV. Legislative Initiative.

Within the framework of the Separation of Powers, there are several potential sources of legislative initiative. With so many sources, it is likely that duplicative drafts of legislation will continue, especially given the lack of communication between the different branches of the Constitutional framework and even between various Ministries,

The right to initiate legislation is delineated in **Article 64 of the Constitution**:

Article 64

The right to legislative initiative shall belong to:

- 30,000 voters (a popular initiative);
- the President of the Kyrgyz Republic;
- Deputies of the Legislative Assembly;
- Deputies of the Assembly of the People's Representatives;
- the Government of the Kyrgyz Republic; and
- the Supreme Court of the Kyrgyz Republic, and the Higher Arbitration Court of the Kyrgyz Republic, on matters within their jurisdiction.

As described above and in the chart below, typically laws come from four sources: the President, either chamber of the Parliament, or the government and its ministries, committees, and agencies. Other than the budget, which the Constitution states must originate from the Government and first be discussed by the People's Assembly, there is no Constitutional limitation on who can prepare legislative drafts within Article 64.

As can be seen in Attachment 1, there is a distinct hierarchy of legislation in Kyrgyzstan. The Constitution is supreme. After that, the hierarchy is: Laws (Jogorku Kenesh), Decrees (President) and Regulations (The Government and its Ministries, Committees, Agencies). Attachment 1 places Codes (Civil, Tax, Family, Criminal, Labor, among others) above Laws. These codes lay foundations for subsequent legislative acts. It is important to note, however, that the Constitution makes no special provisions for codes and the term has originated out of a tradition. Since amending a code is no more difficult than amending a law, the hierarchy is **somewhat mythical** between laws and codes. Custom holds that subsequent laws cannot contradict a code, so if such contradiction exists, either the code or the proposed law must be amended. Civil Code scholars have noted that in other "Civil Code Countries" there are Constitutional provisions which establish the prominence of specific codes and such a provision is absent in the Kyrgyz Constitution. It is unclear if this was poor drafting of the Constitution or because the Civil Code tradition is so entrenched that it is understood. In any event, it must be noted that because a proposed law may contradict a specific code, this is not fatal: it simply means there will be two steps to enacting the new law: first amend the code and then pass the law.

V. IRIS's Role in Legal Reform.

Based on the above Constitutional framework, it is possible to determine the best way for IRIS to have an impact on legal reform in Kyrgyzstan.

1. Possible Players.

As in the United States, the key sources of legislative initiative in Kyrgyzstan are the Legislative (Jogorku Kenesh) and the Executive (President and government) branches. To date, the donors have largely focused on initiating legislation through the President's office. USAID currently funds the President's foreign legal advisor and this

provides IRIS/USAID with an optimal perch to interject into key legislation. The President's office maintains a rigorous annual target of legislation which it would **like to** have enacted. Often the drafting of the legislation is delegated to branches of the government or **the** government requests direct technical assistance from donors if the legislation is beyond the scope of local experience.

The Government:

One possible position IRIS/USAID could request to advise would be the Legal Department of the Government. The Prime Minister is the head of the government in Kyrgyzstan. See Attachment 2 for a Chart of the Government prepared by GTZ. The Government has a legal advisor, Murat Kaipov. Because any ministerial acts (regulations, instructions) or draft laws prepared by ministries must clear through the government, an optimal position for a western advisor would be to hold a position as a legal advisor to Mr. Kaipov. The combination of USAID's current position at the President's office and an analogous position at the government would give IRIS/USAID the ability to have input in key legislation from all points.

Specific Ministries.

In addition, each ministry has legislative drafting arms for both internal regulations and to draft laws for future submission to parliament. Since arriving in Kyrgyzstan in April, the author has drafted legislation for: the Ministry of Justice, the Ministry of Economy and the State Securities Agency. IRIS has been requested by USAID to obtain an office at the Ministry of Justice. The Ministry of Justice has been less than receptive to such a position, however, recent strides have been made towards this goal. The question, however, remains as to whether such a position is the best of the potential positions identified herein.

Jogorku Kenesh:

In addition to a possible advising position at the government, another potentially influential position would be to work with the Committee on Economic Reforms and Finance of the Legislative Assembly.⁴ Currently, much USAID assisted legislation is in this committee (**Law** on Economic Partnerships and Companies, Law on Government Procurement, Law on Liens). The purpose of working directly with this committee would be to educate its members as new laws come through. Conversations with several deputies have informed the author that the deputies tend not to be briefed on donor-sponsored legislation. **Much donor-sponsored legislation is different, both in content and formatting, from typical Kyrgyz legislation and this often causes confusion to the Deputies who are presented with the law with no background support.** The author has been told that the deputies are more likely to veto a law which they do not **understand than to adopt it.** **The members** of the parliament only include 5 lawyers and thus without educating the deputies on each donor-sponsored law, the risk of failure of passage is quite high.

Recommendation:

In order of preference, the author recommends that a position in some capacity with either to Jogorku Kenesh or the Government would be preferable than one with the Ministry of Justice. By having a position at the Parliament or the Government, IRIS and USAID would have two of the three (President, Government, Parliament) key spots covered. The Parliament would be preferable so that USAID and IRIS could participate in legislative drafting and implementation from both branches of the Constitutional framework.

⁴ There are 3 standing committees in the Legislative Assembly: Economic Reforms and Finance, Constitutional, and Social. Each has subcommittees.

2. Key obstacle to legal reform.

Regardless of what point is deemed optimal for USAID and IRIS to administer legal technical assistance in Kyrgyzstan, the fundamental problem which will impede legal reform in Kyrgyzstan is a lack of communication between the President's office and the Parliament. One deputy related to me the story of how he tries continually to speak with the Head of the President's legal team and gets no response. The Deputy sought a role in the drafting of the Civil Code and Procurement Law (among dozens of others) and when he was spumed, he decided to exercise his Constitutionally granted right to initiate drafting of legislation and introduced his own versions of these laws.

The author of this article has witnessed first hand the effects of such obstinacy on behalf of the President's lawyers:

The Law on Government Procurement was drafted by western consultants paid by the World Bank and who worked with the Ministry of Economy. A draft was prepared and introduced into the Parliament. No education of the deputies was performed and the law was rejected for largely non-substantive reasons: the law used a western numbering system (Roman numerals) which is not typically used in Kyrgyzstan and it was generally hard to read. IRIS has helped re-draft the entire law to make it amenable to the concerns of the deputies while also making sure that the law meets the demands of World Bank Conditionalties and the World Trade Organization. Had the President's office worked closely with the Parliament both in drafting and educating, this law would have been passed in the last session. Instead it is delayed and may not return to the floor until the new year. This causes additional resources to be used by USAID in shepherding the law through the parliament.

Thus, any scheme for legal reform and technical assistance from USAID and IRIS must incorporate steps which will help open a dialog between the branches of government. The key to so doing is that

even if USAID and IRIS continue to work primarily with the executive branch, any strategy must include working with the Parliament throughout the drafting process. This means meeting with individual deputies or committees so that IRIS and USAID sponsored legislation does not appear before the parliament without some briefing of the deputies.

Example of IRIS opening a dialog between the branches of Government:

After the President vetoed the Law on Economic Partnerships and Companies, IRIS, who advised on the veto and the objections of the President, began to meet with members of the Parliament to gain support for the objections of the President. Prior to the veto, very little educating of the deputies was conducted by the President's advisors and drafters of the law. As a result, several provisions were added to the law by the deputies and the law had to be vetoed.

In order to cure the lack of communication, IRIS developed a strategy of bringing both branches together to negotiate the compromise version of the draft. IRIS met with the Chairman of the Committee for Economic Reforms and Finance and explained the changes sought in the law in order to be acceptable to the President.

Iris and the Committee Chairman agreed that IRIS would address the full committee of 11 deputies. A representative of the President's legal team was invited. IRIS prepared explanatory comments for the deputies in advance of the meetings and proceeded to field questions of the committee. The President's deputy legal advisor also fielded questions and within twenty minutes, a substantive dialog was ensued. Despite some dissent, each of the 8 Presidential Objections was adopted by votes of 8-1 (two deputies were absent).

The

above

example demonstrates that although there is little communication between the branches, there is no excuse for IRIS and USAID not to bring the sides together in similar meetings on all legislation. By so doing, IRIS and USAID achieve

the twin goats of legal reform: enacting suitable legislation which is supported by the local players and teaching the give-and-take process of legislative drafting which is critical for drafting legislation in a democracy.

VI. Recommended IRIS/USAID strategy for legal reform.

For USAID and IRIS to best deliver technical assistance to Kyrgyzstan the following rubric is optimal:

1. identify the proper initiator of desired legislation. This could be the President, the Government, a Ministry, or the Parliament.

2. IRIS and other donors must work with the parliament on two levels: by educating individual deputies and by group seminars. The purpose of this is to educate deputies about the laws so that they can answer questions of other deputies and defend the law. The current membership of the Legislative Assembly includes reformers and former Communists. Without cultivation of some members of a committee before a committee meeting takes place, it is likely that the first question the committee fields will be whether to eject the foreign advisor. By cultivating a few deputies, it is likely that the vote to eject will be voted down. Also, such input allows IRIS to tune draft legislation to eliminate or deal with potential obstacles which may cause parliament not to pass the given law.

VII. Conclusion.

IRIS and USAID have the optimal opportunity to advance legal reform in Kyrgyzstan. The Executive and Legislative branches are very receptive to IRIS and USAID and repeatedly seek assistance. Key legislation is being drafted by the

President's office, the chambers of the Parliament, the Government, and various Ministries. **IRIS** should not focus on any particular branch but rather identify which body is working on legislation of interest and offer assistance. Furthermore, **IRIS** and **USAID** must remember that the easiest part of drafting a law is writing the specific provisions of the law. The bulk of any legislative drafting effort is meeting with all relevant counterparts to gain acceptance for the law so that it is enacted. Failure to have strong implementation efforts subjects **IRIS** and **USAID** to the risk of drafting legislation for a book shelf whereas the goal is to draft it for the law books.

Relevant Excerpts of the Constitution of the Kyrgyz Republic.

Article 9

2. The right to conduct war is not recognized, except in the case of aggression against Kyrgyzstan and other states, to which Kyrgyzstan is bound by obligations of collective defense. A decision by no less than two thirds of the total number of the deputies of the *Legislative* Assembly of the Jogorku Kenesh is required for each dispatch of military units across the borders of the Kyrgyz Republic.

Article 10

2. A state of emergency throughout the territory of the Kyrgyz Republic may be imposed only by the Legislative Assembly, and on individual territories of the Kyrgyz Republic, when circumstances require urgent measures -- by the President of the Kyrgyz Republic, with immediate notification of the Legislative Assembly, which must confirm the Presidential act within three days.

If such confirmation is not made within this term, the state of emergency shall be terminated.

3. The Legislative Assembly may introduce martial law on the territory of the Kyrgyz Republic only in the event of aggression against the Kyrgyz Republic.

4. Adjournment of a session of the Legislative Assembly during a state of emergency or martial law shall not be allowed. In the case when a session of the Legislative Assembly is not in meeting, and the state of emergency was introduced by the President, the Legislative Assembly shall convene without announcement of convocation, no later than the next day after the introduction of the state of emergency.

Article 11

1. The state budget of the Kyrgyz Republic shall consist of the republican and local budgets, and shall contain all expenditures and revenues of the state. The republican budget shall be approved by the Assembly of People's Representatives upon presentation by the Government.

2. Revenue in the republican budget shall be derived from taxes established by law, other mandatory payments, revenue from state property and otherwise.

A single system of taxation shall function in the territory of the Kyrgyz Republic. The right to impose taxes shall belong to the Jogorku Kenesh of the Kyrgyz Republic. Laws which impose new taxes or increase the tax burden of taxpayers shall not have retroactive force.

4. The report on execution of the republican budget and extra-budgetary funds shall be approved by the Jogorku Kenesh.

Article 41

Publication of laws and other normative legal acts concerning the rights, freedoms and duties of an individual and a citizen is mandatory for their enforcement.

Article 45

2. After the Chairman of the Constitutional Court of the Kyrgyz Republic announces the results of an election, the President within 30 days shall take the oath in the presence of the deputies of the Legislative Assembly and the Assembly of People's Representatives.

Article 46

2. The President of the Kyrgyz Republic:

- 1) makes appointments, with the consent of the Assembly of People's Representatives, to the office of the Procurator General of the Kyrgyz Republic; to the offices of deputies of the Procurator General, procurators of oblasts, City of Bishkek and military procurator of the Kyrgyz Republic; and relieves them of their office;
- 2) makes appointments with the consent of the Assembly of the People's Representatives, to the office of Chairman of the Board of the National Bank of the Kyrgyz Republic; and relieves him of his office;
- 3) nominates to the Legislative Assembly and **Assembly of Peoples Representatives** candidates for election to the offices of Chairman of the Constitutional Court of the Kyrgyz Republic, his deputy, and the judges of the Constitutional Court of the Kyrgyz Republic;
- 4) presents to the Assembly of People's Representatives candidates for election to the offices of Chairman of the Supreme Court of the Kyrgyz Republic and of the Higher Arbitration Court of the Kyrgyz Republic, ~~their deputies~~, and the judges of the ~~Supreme~~ Court of ~~the Kyrgyz Republic~~ and of the Higher Arbitration Court of the Kyrgyz Republic;
- 5) appoints the chairmen, their deputies, and judges of the courts of the regions, the city of Bishkek, districts, and cities, and of the economic courts of the regions and the city of Bishkek, and also of the military tribunals of the Kyrgyz Republic, and relieves them of their positions in cases provided by the Constitution and laws.

5. The President of the Kyrgyz Republic:

1) presents draft laws to the Jogorku Kenesh;

2) signs laws and returns them with his objections to the appropriate house of the Jogorku Kenesh for further consideration; publishes laws; is entitled to appeal through the Constitutional Court of the Kyrgyz Republic against the laws and international treaties, ratified by the Kyrgyz Republic;

3) speaks to the people in annual addresses on the state of affairs in the country, to be delivered at a joint meeting of both houses of the Jogorku Kenesh;

4) is **entitled** to halt or **annul** the effect of acts of the Government of the Kyrgyz Republic and acts of other organs of executive power;

5) has the **right** to decide on **questions** of financing **measures** of **an** urgent nature at **state expense**, and to establish funds;

6) exercises full legislative authority in cases and by the procedure stipulated in Article 68 of this Constitution.

6. The President of the Kyrgyz Republic:

1) is entitled to call ahead of time sessions of the Legislative Assembly and the Assembly of People's Representatives, and to determined matters eligible for consideration;

2) call referenda on his own initiative, or takes decisions on calling referenda on the initiative of no less than 300,000 voters or a majority of the total number of deputies of both houses of the Jogorku Kenesh;

3) calls elections to the Legislative Assembly and the Assembly of People's Representatives, and carries out ahead of time dissolution of the Legislative Assembly and Assembly of People's Representatives in cases, provided in this Constitution;

4) calls elections to local Keneshes and carries out their early dissolution in cases provided in this Constitution;

7. The President of the Kyrgyz Republic in the presence of grounds provided by law, shall warn of the possibility of introducing a state of emergency, and when necessary introduce a state of emergency in individual locations without prior declaration, of which action he shall promptly inform the Legislative Assembly.

8. The President of the Kyrgyz Republic declares universal or partial mobilization; shall announce the status of war in the event of aggression or direct threat of aggression to the Kyrgyz Republic, and shall promptly submit this matter for the consideration of the Legislative Assembly; and declares the martial law and shall promptly submit this matter for the

consideration of the Legislative Assembly.

Article 47

1. The President of the Kyrgyz Republic issues decrees and orders.
2. Execution of decrees and orders of the President of the Kyrgyz Republic shall be mandatory for the whole territory of the Kyrgyz Republic.
3. Decrees and orders made by the President of the Kyrgyz Republic in carrying out full legislative authority in accordance with sub-point 6 of point 5 of Article 46 of the Constitution [ed. Cross-reference to Article 68: if Parliament dissolved, Presidential **decrees=** laws] shall have the force of law.

Article 50

I. The term of office of the President may **be** terminated as a result of: resignation by his own petition, made by him to a joint meeting of the houses of the Jogorku Kenesh; his dismissal from office in the procedure provided by this Constitution; or inability to perform his authority due to illness or as a result of his death.

2. If the President of the Kyrgyz Republic is unable to carry out his duties because of illness, both houses of the Jogorku ~~Kenesh~~ shall take the decision on early dismissal of the President of the Kyrgyz Republic from the office on the basis of the conclusion of a State Medical Commission created thereby and with a vote of no less than two-thirds of the total number of deputies of each of the houses.

Article 51

1. The President of the Kyrgyz Republic may be dismissed from office **by** the Assembly of People's Representatives only on the basis of a charge made by the Legislative Assembly of state treason or commission of another grievous crime supported by a ruling of the Constitutional Court of the Kyrgyz Republic.

2. A decision by the Legislative Assembly to bring a charge against the President of the Kyrgyz Republic and dismissing him from office must be made by a vote of two-thirds of the total number of deputies of the Legislative Assembly, and in the presence of a ruling by a special commission formed by the Legislative Assembly

3. A negative ruling by the Constitutional Court of the Kyrgyz Republic on a charge made by the Legislative Assembly shall entail the dissolution of the Legislative Assembly.

4. A resolution of the Assembly of People's Representatives on dismissal of the President of the Kyrgyz Republic from office must be adopted by a majority vote of no less than two-thirds of the total number of deputies of that house, no later than two months after the laying of the charge against the President by the Legislative Assembly. If a decision is not reached by the Assembly within this period, the charge shall be considered to **be** refuted.

Chapter Four

THE JOGORKU KENESH

Article 54

1. The Jogorku Kenesh -- the parliament of the Kyrgyz Republic -- is the representative organ which effects legislative power.

2. The Jogorku Kenesh consists of two houses: the Legislative Assembly, with 35 deputies, sits continuously and is elected on the basis of representation of the interests of the total population of the republic;

and the Assembly of People's Representatives, with 70 deputies, which works in sessions and is elected on the basis of representing territorial interests.

3. Deputies of the Legislative Assembly and Assembly of People's Representatives are elected for five years.

The procedure for electing deputies of the Legislative Assembly and Assembly of People's Representatives is determined by constitutional law.

Article 55

1. Each house of the Jogorku Kenesh shall assemble for its first meeting after election with no less than two-thirds of the members of the given house and no later than 30 days after the publication of the results of the election.

2. The eldest deputy of the Jogorku Kenesh shall open the first meeting of that house.

3. The Legislative Assembly and the Assembly of People's Representatives shall meet separately. The houses shall meet jointly for taking oaths of judges to the Constitutional Court of the Kyrgyz Republic, for hearing addresses and declarations of the President of the Kyrgyz Republic, and addresses of the leaders of foreign states, and also in other cases envisaged by the regulations of the houses of the Jogorku Kenesh.

4. From the day of the start of work of the new convocation of the Legislative Assembly and the Assembly of People's Representatives, the authority of the old convocation of the Legislative Assembly and the Assembly of People's Representatives shall be terminated.

Article 56

1. A citizen of the Kyrgyz Republic, who has attained the age of 25 and has permanently resided in the Republic for no less than 5 years before the election, may be elected a Deputy of the Legislative Assembly of the Jogorku Kenesh or a Deputy of the People's Representatives of the Jogorku Kenesh.

2. A Deputy of the Legislative Assembly of the Jogorku Kenesh and a Deputy of the Assembly of People's Representatives of the Jogorku Kenesh shall be subordinate to the Constitution of the Kyrgyz Republic and his/her conscience.

3. A Deputy of the Legislative Assembly and a Deputy of the Assembly of People's Representatives shall possess the right of immunity: he/she may not be detained or arrested, subjected to search or personal examination, except in cases of arrest at the scene of a crime or of

commission of a grievous crime. Subjection of a deputy to criminal or administrative liability, to be imposed by judicial procedure, shall be allowed only with the consent of the appropriate house.

4. One person may not simultaneously be a deputy of the Legislative Assembly and of the Assembly of People's Representatives. A deputy of the Legislative Assembly or Assembly of People's Representatives may not simultaneously be a Deputy of a local Kenesh.

Deputies of the Legislative Assembly may not work in another state service and may not engage in business activity. A deputy of the Legislative Assembly has the right to engage in teaching, scientific, or other creative activity, if such activity does not interfere with the performance of his duties as deputy.

Deputies of the Assembly of People's Representatives may not **simultaneously** be engaged in the office of a member of the Government, a procurator, a judge, or another **office** of state service provided by the law. A deputy of the Assembly of People's Representatives working in **state service** may be relieved of the position occupied without the consent of his **House**.

5. A deputy of the Legislative Assembly or Assembly of People's Representatives who has not warranted the trust of the voters may be dismissed by decision of a majority of voters in a procedure established by law.

6. A deputy of the Legislative Assembly or the Assembly of People's Representatives shall be deprived of his mandate by resolution of the Central Commission on Elections and Conduct of Keferenda in the event of [his] **submitting** a **resignation**, delivery of a guilty **verdict** against him by a court, acknowledgment of his inability to function, recall by voters, dissolution of his house, or removal of permanent residence beyond the borders of the Kyrgyz Republic.

7. Preparation of questions connected with employing prosecution measures on deputies, observance by them of the requirements of point 4 of this Article, rules of parliamentary ethics, termination of office of deputies, and deprivation of their authority and parliamentary immunity, shall be the work of the Central Commission on Elections and Conduct of Referenda.

Article 57

A deputy of the Legislative Assembly and the Assembly of People's Representatives has the right of inquiry to organs of executive power and their officials, who are obliged to answer the inquiry within 10 days.

58. 1. The work of the Legislative Assembly shall include:

1) Introduction of amendments and supplements to the Constitution of the Kyrgyz Republic in the procedure established by the Constitution

2) Adoption of laws of the Kyrgyz Republic;

58.3 The work of the Assembly of People's Representatives includes:

1) Introduction of amendments and supplements to the Constitution of the Kyrgyz Republic;

adoption of laws in cases envisaged by the Constitution;

3) Official interpretation of the Constitution and the laws adopted thereby;

4) Alteration of the borders of the Kyrgyz Republic;

5) Approval of laws adopted by the Assembly of the People's Representatives;

6) Election, upon nomination by the President of the Kyrgyz Republic, of the Chairman of the Constitutional Court of the Kyrgyz Republic, his deputy, and judges of the Constitutional Court of the Kyrgyz Republic; deciding matters of relieving of the position of the Chairman of the Constitutional Court, his deputy and judges of the Constitutional Court of the Kyrgyz Republic in cases and by the procedures envisaged by this Constitution;

7) Election of one-third of the members of the Central Commission on Elections and Conduct of Referenda;

8) Appointment of one-third of the auditors of the *Counting* Board;

9) Ratification and denunciation of international treaties, except cases provided by Article 48 of this Constitution;

10) Introduction of states of emergency, authorization or annulment of decrees of the President of the Kyrgyz Republic on this issue;

2) Approval of laws adopted by the Legislative Assembly in cases provided by the Constitution;

3) Official interpretation of the Constitution and of the Laws adapted by the Assembly;

4) Authorization of the republican budget and or reports on its implementation;

5) Alteration of the borders of the Kyrgyz Republic;

6) Deciding matters of the administrative and territorial structure of the Kyrgyz Republic;

7) Calling elections for president of the Kyrgyz Republic;

8) Approval of appointments of the Prime Minister of the Kyrgyz Republic;

9) Approval of appointments of the Procurator General of the Kyrgyz Republic;

10) Approval of appointments of the Chairman of the Board of the National Bank of the Kyrgyz Republic;

11) Election, upon nomination by the President of the Kyrgyz Republic, of the Chairman of the Constitutional Court of the Kyrgyz Republic, his deputy, and the judges of the Constitutional Court of the Kyrgyz Republic;

12) Election, upon nomination by the President of the Kyrgyz Republic, of the

11) Deciding matters of war and peace; introduction of the state of war, and declaration of war; and authorization or annulment of decrees of the President of the Kyrgyz Republic on these issues;

12) Deciding matters for the possibility of using the Armed Forces of the Kyrgyz Republic beyond its borders when necessary to fulfill international treaty obligations in support of peace and security;

13) Establishment of military ranks, diplomatic ranks, class ranks and other special titles of the Kyrgyz Republic;

14) Establishment of state awards and honorary titles of the Kyrgyz Republic;

15) Issuing acts of amnesty;

16) Hearing annual reports of the Prime Minister as well as of organs and officials appointed and elected by it, with account taken to the rules of autonomy and independence of such organs and officials established in this Constitution;

17) Bringing charges against the President of the Republic toward his dismissal from office.

Chairmen of the Supreme Court and the Higher Arbitration Court of the Kyrgyz Republic; ~~their~~ deputies, and the ~~judges~~ of the Supreme Court and the Higher Arbitration Court of the Kyrgyz Republic;

13) Election of one-third of the members of the Central Commission on Elections and Conduct of Referenda;

14) Deciding issues of dismissing judges in the events and by the procedures provided by this Constitution;

15) Appointment of one-third of auditors of the Counting Board;

16) Dismissal of the President of the Kyrgyz Republic from office;

17) Hearing reports of the Prime Minister as well as of organs and officials appointed and elected by the Assembly, with account taken of the rules of autonomy and independence of such organs and officials established in this Constitution;

18) Expression of no confidence vote to the Prime Minister;

19) Hearing reports of the Procurator General and the Chairman of the Board of the National Bank.

Article 59

1. Laws on the introduction of amendments and supplements to the Constitution, constitutional laws, laws on the alteration of the borders of the Kyrgyz Republic, and on interpretation of the Constitution and constitutional laws, shall be adopted by both houses of the Jogorku Kenesh by a majority vote of no fewer than two-thirds of the total number of deputies of

each of the houses.

2. Laws adopted by the Legislative Assembly on matters of ~~taxes and levies~~, financial and customs regulation, banking activities, ratification and denunciation of international treaties of the Kyrgyz Republic, and amnesty, shall be subject to consideration by the Assembly of People's Representatives and shall be considered approved if more than half of the total number of deputies of the Assembly of People's Representatives vote affirmatively.

In the event of non-approval by the Assembly of People's Representatives of a decision taken by the Legislative Assembly, the decision on the matter under consideration may be approved by a majority vote of no fewer than two-thirds of the total number of deputies of the Legislative Assembly.

3. Laws adopted by the ~~Assembly~~ of People's Representatives ~~on matters~~ stated in sub-points 4 and 6 of point 3 of Article 58 of this Constitution, shall be subject to consideration by the Legislative Assembly and shall be considered approved if they receive yes votes from more than half of ~~the~~ total ~~number~~ of deputies of the Legislative Assembly. In the event of ~~non-~~approval of a law by the Legislative Assembly, the decision on the matter under consideration may be approved by a majority vote of no fewer than two-thirds of the total number of deputies of the ~~Assembly~~ of People's Representatives.

4. Laws stated in the first paragraph of point 2 and the first paragraph of point 3 of this Article shall also be considered approved if they are not discussed by the appropriate house of the Jogorku Kenesh ~~within~~ 60 days of their adoption.

Article 61

Committees and provisional commissions of the houses shall draft the laws, preliminarily consider the issues referred to their competence, and monitor implementation of the adopted words and decisions.

Article 62

1. The activity of the Legislative Assembly shall be carried out in the form of Sessions of the ~~Legislative~~ Assembly. Sessions of the Legislative Assembly shall be conducted once a year, beginning on the first working day of September and ending on the last working day of June.

2. The activity of the Assembly of People's Representatives shall be carried out in the form of sessions of the Assembly of People's Representatives. Sessions of the Assembly of People's Representatives shall be convened no ~~less~~ than two times a year.

3. A session of the Legislative Assembly or session of the Assembly of People's Representatives shall be legitimate with the attendance of no fewer than two-thirds of the total number of deputies of the given house. The procedure of activity of the houses of the ~~Jogorku~~ Kenesh shall be defined by the Regulations.

Article 63

1. The Legislative Assembly and the Assembly of People's Representatives may be dissolved **ahead** of **time** by a **decision** adopted by a majority vote of no fewer than **two-thirds** of the total number of deputies of the respective houses.

2. The Legislative Assembly or the Assembly of People's Representatives, or both houses of the **Jogorku Kenesh** **simultaneously**, may be **dissolved ahead** of time by **the** President of **the** Kyrgyz Republic: as the result of a referendum; in the event of three-time refusal to approve the appointment of a Prime Minister; or in the event of another crisis caused by insurmountable differences between the houses of the Jogorku Kenesh or between one **or** both houses of the Jogorku Kenesh and other branches of state power.

3. **In** the case envisaged in Point 3 of Article 51 of this Constitution, the Legislative Assembly shall be considered dissolved from the moment of the pronouncement of the resolution by the Constitutional Court of the Kyrgyz Republic.

4. The houses of the **Jogorku Kenesh** may not be dissolved; in time of a state emergency or war; during consideration by the houses of the Jogorku Kenesh of the issue of dismissing the President of the Kyrgyz Republic from office; or when there are fewer than six months remaining until the end of the term of office of the President of the Kyrgyz Republic.

5. In the event of dissolution of the Legislative Assembly, the Assembly of People's Representatives, or both houses of the Jogorku Kenesh, the President of the Kyrgyz Republic shall appoint the date of elections of deputies of the given house or houses, so that the newly elected house or houses convenes for its first meeting no later than six months after the moment of dissolution.

Section Two. LEGISLATIVE ACTIVITIES

Article 64

The right to legislative initiative shall belong to:

3000 voters (a popular initiative);
the President of the Kyrgyz Republic;
deputies of the Legislative Assembly;
deputies of the Assembly of the People's Representatives;
the Government of the Kyrgyz Republic;
the Supreme Court of the Kyrgyz Republic, and the Higher Arbitration Court of the Kyrgyz Republic, on matters within their jurisdiction.

Article 65

1. Draft laws may be presented in both houses of the **Jogorku Kenesh**. The respective house of the Jogorku Kenesh **must decide** within **one** month whether to **introduce** the draft law for consideration by that house, and either determine the order of priority of consideration or reject it with a statement of the reasons.

2. Amendments to draft laws **OR the republican budget** may be **introduced** with the

consent of the Government.

3. Draft laws or amendments to laws **envisaging** a reduction of revenues or an increase of expenditures of the state may be adopted only in the presence of a **ruling** by the Government.

4. A draft law shall be considered to be adopted if a majority of the total number of deputies of a house have voted for it.

5. A draft law which has been adopted by one house, on a matter which requires approval from the other house in accordance with the Constitution, shall be presented to that house no later than five days after its adoption by the first house. These draft laws shall be considered adopted from the moment of approval by the other house, or in cases when such approval is not obtained, from the moment of authorization in accordance with Points 2 and 3 of Article 59 of this Constitution.

6. Drafts of laws on introducing amendments and supplements to the Constitution, of Constitutional laws, of laws on altering the borders of the Kyrgyz Republic, and on interpretation of the Constitution and constitutional laws, shall be considered adopted after no fewer than two readings if no fewer than two thirds of the total number of deputies of each house of the Jogorku Kenesh has voted for them. The date of adoption of the draft law shall be considered to be the day when the vote on adopting the draft was taken in both houses. If one house has voted on one day and the other on another day, then the date of adoption of the law shall be considered to be the day when the second house voted for its adoption.

7. Introduction of amendments and supplements to the Constitution and constitutional laws during states of emergency shall not be allowed.

Article 66

1. An adopted law shall be sent to the President of the Kyrgyz Republic for signing within five working days.

2. The President of the Kyrgyz Republic, no later than 15 working days after receiving the law, shall sign it or return it with his objections. The given law shall be subject to a second consideration in the house which adopted it. If under second consideration the law is approved in the earlier adopted wording by a majority vote of no less than two-thirds of the total number of deputies, then the law shall be subject to signing by the President of the Kyrgyz Republic within seven working days.

3. A law rejected by the President which, in accordance with this Constitution, has been adopted by a **majority** vote of no fewer than two-thirds of the total number of deputies of **each** house of the Jogorku Kenesh, shall be subject to signing by the President within the period established in point 2 of this Article if under second consideration it is approved in the earlier adopted wording by a majority vote of no fewer than three-fourths of the total number of deputies of each of the houses of the Jogorku Kenesh.

4. The law signed by the President of the Kyrgyz Republic shall be subject to publication within time periods established by law.

Article 67

A law shall enter into effect from the moment of its publication if no other stipulation is made in the law itself or in a law on the procedure of its implementation.

Article 68

1. The houses of the Jogorku Kenesh may delegate their legislative authority to the President of the Kyrgyz Republic for a period of no more than one year.

2. Legislative authority shall be **transferred** to the President of the Kyrgyz Republic in the event of dissolution of the houses of the Jogorku Kenesh.

3. Legislative authority shall be carried out by the President of the Kyrgyz Republic by the adoption of decrees, which have the force of **law**.

4. In the event of the dissolution of one of the houses of the Jogorku Kenesh the President of the Kyrgyz Republic shall carry out the legislative authority of that house only.

Chapter Five

EXECUTIVE POWER

Article 71

1. The Prime Minister shall be appointed by the President of the Kyrgyz Republic with the consent of the Assembly of People's Representatives.

2. Nomination of a candidate for Prime Minister shall be submitted to the Assembly of People's Representatives no later than two weeks after entry into office of the newly elected President of the Kyrgyz Republic, or after resignation of the Prime Minister or Government, or within one week from the day of rejection of a nominee by the Assembly of People's Representatives.

3. The Assembly of the People's Representatives shall take its decision on giving consent to the appointment of a Prime Minister no later than seven days from the day of submission of the nominee.

4. After three refusals by the Assembly of People's Representatives of nominees for Prime Minister, the President of the Kyrgyz Republic shall appoint a Prime Minister and dissolve the Assembly of People's Representatives.

5. The Assembly of the People's Representatives may express a no confidence vote to the Prime Minister. A resolution of no confidence in the Prime Minister shall be adopted by a majority vote of no fewer than two-thirds of the total number of deputies of the Assembly of People's Representatives. After an expression of no confidence in the Prime Minister by the Assembly of People's Representatives, the President of the Kyrgyz Republic shall have the right either to announce the resignation of the Prime Minister or to reject the decision of the Assembly of People's Representatives. In the event that the Assembly of People's Representatives expresses no confidence in the Prime Minister a second time within three months, the President

of the Kyrgyz Republic shall either announce the resignation of the Prime Minister or dissolve the Assembly of People's Representatives.

6. The Prime Minister, in accordance with the Constitution of the Kyrgyz Republic, laws, and decrees of the President of the Kyrgyz Republic, determines the fundamental directions of the activities of the Government, organizes its work, and personally answers for its activities.

Article 72

2. The Prime Minister shall present a report on the work of the Government to the Legislative **Assembly and the Assembly of People's Representatives annually.**

Article 73

1. The Government of the Kyrgyz Republic shall decide all matters of state **governing** except authorities vested in the President of the Kyrgyz Republic and the Jogorku Kenesh by the Constitution.

2. The Government of the Kyrgyz Republic shall:
prepare the Republican budget, submit it to the Assembly of People's Representatives, and provide its implementation;
pursue budgetary, financial, tax, and price policy;
organize and manage state property;
take measures **on** the defense of the country, state security, and implementation of foreign policy of the Kyrgyz Republic;
take measures to provide rule of law, and the rights and freedoms of citizens, to protect property and public order, and to fight crime.

Article 74

The Government of the Kyrgyz Republic shall issue decrees and ordinances binding throughout the territory of the Kyrgyz Republic for all bodies, organizations, officials and citizens and organize, supervise and secure their fulfillment.

Article 75

2. Ministries, state committees, and administrative departments shall issue within their competence, decrees and ordinances on the basis and for the implementation of the Constitution, laws of the Kyrgyz Republic, resolutions of the houses of the Jogorku Kenesh, acts of the President, and organize, verify and secure their implementation.

Article 80

1. A judge of the Constitutional Court, the Supreme Court, and Higher Arbitration Court may be a citizen no younger than 35 years and no older 70, who has a degree in law and **no less than 10 years of experience in the legal profession.**

Judges of the **Constitutional** court [ed. Emphasis added] of the Kyrgyz Republic shall be elected for a term of fifteen years by the **Legislative Assembly and the Assembly of People's Representatives** upon nomination by the President of the Kyrgyz Republic.

Judges of the **Supreme Court and of the Higher Arbitration Court** of the Kyrgyz Republic shall be elected for a term of ten years by the **Assembly of People's Representatives** upon nomination by the President of the Kyrgyz Republic.

...

Article 81

2. Judges of the **Constitutional** Court of the Kyrgyz Republic may be removed from office upon presentation by the President of the Kyrgyz Republic by the majority of not less than **2/3** of votes of the total number of deputies of each house of the Jogorku Kenesh of the Kyrgyz Republic.

3. Judges of the Supreme Court and Higher Arbitration Court may be removed from office upon presentation by the President of the Kyrgyz Republic by the majority of no less than **2/3** of the votes of the total number of deputies of the Assembly of People's Representatives.

Article 82

1. The Constitutional Court shall be the highest body of the judicial power for the protection of the Constitution of the Kyrgyz Republic.

2. The Constitutional Court shall consist of the Chairman, the Deputy Chairman and seven judges of the Constitutional Court.

3. **The Constitutional Court shall:**

1) find laws and other normative legal acts unconstitutional in the event they contradict the Constitution;

2) resolve disputes, concerning the effect, application and interpretation of the Constitution;

3) determine the validity of the elections of the President of the Kyrgyz Republic;

4) issue a judgement concerning the removal from office of the President of the **Kyrgyz** Republic as well as judges of the Constitutional Court, the Supreme Court, the Higher Arbitration Court of the Kyrgyz Republic;

5) give its consent for initiation of criminal prosecution of judges of local courts;

6) issue a judgement concerning amendments and changes to the Constitution of the Kyrgyz Republic;

7) **annul** the decisions of bodies of local self-government which contradict the Constitution of the Kyrgyz Republic;

8) render decisions concerning the constitutionality of practices in the application of laws which affect the constitutional rights of citizens.

4. The decision of the Constitutional Court shall be final and shall not be subject to appeal.

Finding laws or other acts unconstitutional by the Constitutional Court shall terminate the effect of these laws on the territory of the Kyrgyz Republic; such finding shall also abrogate normative and other acts, which had been based on the act declared unconstitutional.

Chapter Eight

THE PROCEDURE OF AMENDING AND SUPPLEMENTING **THE** CONSTITUTION OF THE KYRGYZ REPUBLIC

Article 96

1. Amendments and supplements of this Constitution **shall** be adopted by referendum, appointed by the President of the Kyrgyz Republic.

2. Amendments and supplements may be **adopted in the houses** of the Jogorku Kenesh after a proposal by the President of the Kyrgyz Republic, by a majority of the total number of deputies of the Legislative Assembly and Assembly of People's Representatives, or by no fewer than 300, 000 voters.

3. Proposals on introducing amendments and supplements to the Constitution of the Kyrgyz Republic shall be considered by the **Legislative** Assembly and Assembly of **People's** Representatives, taking into account the ruling of **the** Constitutional Court of the Kyrgyz Republic, no earlier than three months and no later than six months from the day of submission of the proposal to the Legislative Assembly and Assembly of People's Representatives.

4. The text of a draft law on introducing amendments **and** supplements to the Constitution of the Kyrgyz Republic may not be altered during discussion on it in the Legislative Assembly and Assembly of People's Representatives.

Article 97

1. Amendments and **suppiemenrs** to this Constitution shall be considered adopted by the Jogorku Kenesh if no fewer than two-thirds of the total number of deputies of each of its houses have voted for them.

2. The non-adopted proposal may be re-submitted to the Jogorku Kenesh no earlier than after one year.